

REMARKS/ARGUMENTS

This application has been reconsidered carefully in light of the Office Action dated as mailed on 29 March 2006. A careful reconsideration of the application by the Examiner in light of the foregoing amendments and the following remarks is respectfully requested.

This response is timely filed as it is filed within the three (3) month shortened statutory period for response to the outstanding Office Action.

No additional claim fee is believed due as a result of this Amendment because neither the total number of pending claims nor the number of pending independent claims is believed to exceed the total number and the number of independent claims, respectively, for which fees have previously been paid. If, however, it is determined that such a fee is properly due as a result of this communication, the Commissioner is hereby authorized to charge payment of such fees or credit any overpayment, associated with this communication, to Deposit Account 19-3550.

Amendment to the Claims

By the above, independent claims 1, 15 and 29 have each been rewritten for improved form and clarity relative to that which Applicants regard as their invention. In particular, these claims have been rewritten for improved clarity that in the claimed absorbent articles, the required void is centrally disposed in the outer absorbent member.

Independent claim 15 has further been rewritten to ensure provision of proper antecedent basis for the recited elements.

Independent claim 29 has further been rewritten to make clear that the claim requires at least one of a topsheet and a backsheet to be disposed directly adjacent the absorbent core, such as shown in several of the figures in the application.

No new matter is added by these rewritten claims.

Claims 1-17 and 29-39 remain in the application.

Election/Restrictions

The Action states that claims 18-28 “are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.”

It is respectfully noted that claims 18-28 were previously cancelled and thus claims 18-28 are not pending in the subject application.

Information Disclosure Statement

5 The Action states various objections to the Information Disclosure Statement filed on 15 September 2003. These stated objections included:

1. failure to "include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent listed that is not in the English language";
- 10 2. failure to provide "a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed"; and
3. placement of "an undue burden placed upon the examiner."

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It is respectfully noted that the Information Disclosure Statement filed on 15 September 2003 specifically and expressly noted that:

20 The references listed on the attached Form PTO-1449 were cited during prosecution of the patent application listed below, which is relied upon for an earlier filing date under 35 U.S.C. 120:

25 Title: ABSORBENT ARTICLE WITH CENTER
FILL PERFORMANCE

Applicant(s): Fung-jou CHEN et al.

Serial No.: 09/165,875

Filing Date: 02 October 1998

30 Attorney Docket No.: KCC-14,105

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The Manual of Patent Examining Procedure (MPEP) in section 609.04(a) entitled, "Content Requirements for an Information Disclosure Statement," specifically provides:

35 There are **exceptions** to this requirement that a copy of the information must be provided. First, 37 CFR 1.98(d) states that a copy of any patent, publication, pending U.S. application, or other information listed in an information

disclosure statement is not required to be provided if: *>(A)< the information was previously cited by or submitted to, the Office in a prior application, provided that the prior application is properly identified in the IDS and is relied on for an earlier filing date under 35 U.S.C. 120; and *>(B)< the IDS submitted in the earlier application complies with 37 CFR 1.98(a)-(c). **If both of these conditions are met, the examiner will consider the information previously cited or submitted to the Office and considered by the Office in a prior application relied on under 35 U.S.C. 120.** This exception to the requirement for copies of information does not apply to information which was cited in an international application under the Patent Cooperation Treaty. **If the information cited or submitted in the prior application was not in English, a concise explanation of the relevance of the information to the new application is not required unless the relevance of the information differs from its relevance as explained in the prior application.** See subsection III.** below. [Emphasis added.]

In view of the exceptions authorized and approved in the above-cited MPEP passage, the objections to the Information Disclosure Statement filed on 15 September 2003 for failure to provide a concise explanation of the relevance of each patent listed that is not in the English language and failure to provide a legible copy of each cited foreign patent document are not believed to be well founded. The withdrawal of these objections is hereby requested.

With regard to the allegation of the placement of an "undue burden" upon the Examiner by the number of documents listed in the IDS, it is respectfully noted that all the documents listed in the subject IDS had been previously identified and listed in Information Disclosure Statements submitted in the parent patent application (USSN 09/165,875, now U.S. Patent 6,673,982, issued 06 January 2004). Thus, all the listed references had previously been identified to the USPTO for consideration relative thereto and no new references were listed or identified in the IDS filed on 15 September 2003.

Claim Rejections - 35 U.S.C. §102(b)

1. Claims 1, 2, 4, 5, 8-12, 14, 15, 29, 30, 32, 33 and 36-39 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent 4,973,325 to Sherrod et al. (hereinafter "Sherrod").

These rejections are respectfully traversed to the extent they may be applied to these claims, particularly these claims as above rewritten.

Claims 1, 15 and 29 are independent claims, with claims 2, 4, 5, 8-12 and 14, directly or indirectly, dependent on claim 1 and claims 30, 32, 33 and 36-39 dependent on claim 29.

With respect to claims 1, 29 and 30, the Action asserts that:

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Sherrod discloses a feminine pad 10, 28 comprising an absorbent core 14 sandwiched between a fluid permeable cover 20, 44 and a fluid impermeable baffle 22, 42 (column 3, lines 49-53), the absorbent core having central absorbent member 32 disposed over and extending into a void [void is considered to be any of the open areas around transfer member 54] of an outer absorbent member 30 (column 4, line 41 and figure 6); and a transfer member/wicking barrier 54 disposed between outer absorbent member 30 and central absorbent member 32, said wicking barrier comprising a vertical component that spans a vertical distance between the outer and central absorbent members and a horizontal component that spans a horizontal distance on the bodyside of the absorbent core, the wicking barrier facilitates movement of body fluid from the permeable cover 44 downward and outward to distant areas of central and outer absorbent members 39, 32 (column 4, lines 38-41 and figure 6).

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Claims 1 and 29 are each directed to specified absorbent articles. More particularly, claims 1 and 29 each require that the respective claimed absorbent articles include an absorbent core comprising an outer absorbent member and a central absorbent member. The claimed absorbent articles also include a wicking barrier disposed between the outer absorbent member and the central absorbent member. The wicking barrier comprises a vertical component and a horizontal component, with the vertical component spanning a vertical distance between the outer absorbent member and the central absorbent member and the horizontal component spanning a horizontal distance on the body side surface of the absorbent core.

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As a preliminary matter, the Action appears to have improperly relied on and combined inconsistent features and elements of a prior art feminine pad illustrated in FIGS. 1 and 2 of Sherrod with features and elements of the feminine pad disclosed in Sherrod and such as shown in FIGS. 3-6 of Sherrod. For example, the feminine pad 10, the absorbent 14, the fluid permeable cover 20 and the fluid impermeable 22 are only shown in prior art FIGS. 1 and/or 2 of Sherrod. This prior art feminine pad 10 does **NOT** include an

absorbent core comprising an outer absorbent member and a central absorbent member, let alone also include a wicking barrier disposed between the outer absorbent member and the central absorbent member, as claimed.

While the Action alleges that a “void is considered to be any of the open areas around transfer member 54”, in the claimed invention the void is required to be in the outer absorbent member, not merely in or “around” a “transfer member.” More particularly, claims 1 and 29 originally required the outer absorbent member have a central void open toward the body side of the absorbent article with the central absorbent member disposed over the central void of the outer absorbent member and extending into the void. Claims 1 and 29 have been rewritten to make clear the requirement that the void is centrally disposed in the outer absorbent member.

As disclosed, the wicking barrier can comprise any barrier material between two segments of material that reduces lateral wicking of fluid from the central absorbent member to the surrounding outer absorbent member. [See page 30, lines 31-33.] Moreover, the wicking barrier can not only interfere with wicking flow, wherein capillary forces move the fluid, but also impede more rapid flow as well, including gushes of flow driven by hydraulic pressure or gravitational force. Thus, the flow isolation effect of the wicking barrier is not limited to wicking flow alone. [See page 10, lines 12-15.]

In contrast, Sherrod specifically states that the transfer member 54 thereof “can be constructed from any material which will readily transfer fluid as well as having the ability to give the fluid up to a cellulose absorbent or to an absorbent containing a superabsorbent.” [See Column 4, lines 41-45.]

Clearly, the transfer member 54 of Sherrod does not correspond to the wicking barrier of the claimed invention.

Absorbent articles, such as claimed and comprising an outer absorbent member and a central absorbent member with a wicking barrier disposed between the outer absorbent member and the central absorbent member, are not shown or suggested by the prior art.

Independent claim 29 requires the absorbent article additionally include at least one of a topsheet and a backsheet disposed directly adjacent the absorbent core. An absorbent article which includes an absorbent core comprising an outer absorbent member and a central absorbent member; a wicking barrier disposed between the outer absorbent

member and the central absorbent member and at least one of a topsheet and a backsheet disposed directly adjacent the absorbent core is not shown or suggested by the prior art.

In view of the above, independent claim 1 and the claims dependent thereon (including claims 2, 4, 5, 8-12 and 14) as well as independent claim 29 and the claims dependent thereon (including claims 32, 33 and 36-39) are believed to be patentable over the prior art of record and notification to that effect is solicited.

Further, at least certain of these claims include additional limitations which are believed to further patentably distinguish over the prior art of record. For example, claims 5 and 33 each require that the wicking barrier have a liquid permeability gradient such that the wicking barrier is more liquid permeable away from the body side of the article.

While the Action cites Sherrod column 6, lines 10-15 and FIG. 6 as disclosing that the transfer member 54 distributes the body fluid stain 74 "laterally to a greater portion of the distant/outer garment facing of absorbent member 30, 32", nowhere does the Action cite or identify any disclosure, showing or suggestion that the transfer member 54 of Sherrod has a liquid permeability gradient let alone that the transfer member 54 Sherrod is more liquid permeable away from the body side of the article, as required by these claims.

Claims 8 and 36 each require that the central absorbent member further comprises an outer perimeter and a center, and the wicking barrier is adapted to establish a pathway for fluid flow from the center of the central absorbent member to the outer perimeter of the central absorbent member. Such absorbent articles are not shown or suggested by the cited portions of Sherrod. For example, in FIG. 6 does not show or support fluid flow from the center of the central absorbent member to the outer perimeter of the central absorbent member, as required by these claims.

Claims 9 and 37 each require that the wicking barrier comprises multiple vertical layers of barrier material. As the transfer member 54 of Sherrod does not correspond to the claimed wicking barrier, the prior art of record clearly does not show or suggest the inclusion of a wicking barrier comprising multiple vertical layers of barrier material, as required in the claimed invention.

Claims 11 and 39 each require that the central absorbent member comprises a plurality of vertically oriented layers of nonabsorbent material. Claim 14 requires the

central absorbent member comprise a composite having multiple vertical layers of barrier material alternating with layers of absorbent material. The Action has failed to identify any prior art showing of an absorbent article having a central absorbent member comprising a plurality of vertically oriented layers of nonabsorbent material or a central absorbent member comprising a composite having multiple vertical layers of barrier material alternating with layers of absorbent material, as here claimed. The legs 58 and 62 shown in Sherrod are legs of the transfer member 54, **NOT** the central absorbent member.

Claims 10 and 38 each require that the topsheet of the absorbent article be provided with at least one fold to form an elevated runoff barrier. While the Action refers to “a fold formed in the top sheet 44 (end points on surface of top sheet that fold over shaping member 42 in figure 6)”, no such fold in top sheet 44 is described in Sherrod or shown in FIG. 6 of Sherrod.

Claim 15 is also an independent claim. In rejecting claim 15, the Action asserts:

Sherrod discloses the article as discussed above with respect to claim 1 and further discloses peel strip/shaping layer 80 (column 6, lines 18-25 and figure 6).

Claim 15 requires that the absorbent core comprise a central absorbent member and an outer shaping member. Claim 15 further requires that the outer shaping member have a void centrally disposed therein for receiving at least a portion of the central absorbent member, whereby an interface is defined between the central absorbent member and the outer shaping member, the interface spanning a vertical distance. Claim 15 still further requires a wicking barrier disposed along a vertical distance of the interface between the central absorbent member and the outer shaping member, wherein the wicking barrier comprises a horizontal component spanning a horizontal distance on the body side surface of the absorbent core.

It is respectfully submitted that the peel strip 80 of Sherrod in no way corresponds to the claimed “outer shaping member.” For example, the peel strip 80 of Sherrod does not have “a void centrally disposed therein for receiving at least a portion of the central absorbent member”. Nor does Sherrod show or suggest forming an interface spanning a vertical distance between the central absorbent member and the outer shaping member. Nor does Sherrod show or suggest a wicking barrier disposed along a vertical

distance of the interface between the central absorbent member and the outer shaping member.

In view thereof, the withdrawal of the subject rejections is requested and notification to that effect is solicited.

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Claim Rejections - 35 U.S.C. §103

2. Claims 3, 6, 7, 16, 17, 31, 34 and 35 were rejected under 35 U.S.C. §103(a) as being unpatentable over Sherrod.

10 With regard to claims 3, 6, 31 and 34, the Action acknowledges that Sherrod does not expressly disclose a wicking barrier that is formed from an apertured film. The Action, however, alleges that:

15 One would be motivated to modify the wicking barrier with an apertured film for enhanced vertical fluid wicking since it is well known that the addition of apertures increases said fluid wicking. Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to modify the wicking barrier and thus provide a wicking barrier formed of an apertured film.

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With regard to claims 16, 17 and 35, the Action alleges that:

25 Sherrod inherently [discloses?] outer shaping member thickness, edge width, base weight or wicking barrier horizontal spanning distance values since the discovery of a previously unappreciated property of a prior art composition, or of a scientific explanation for the prior art's functioning, does not expressly disclose not [?] render the old composition patentably new to the discoverer.

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Claims 3, 6 and 7 are dependent on claim 1; claims 16 and 17 are dependent on claim 15; and claims 31, 34 and 35 are dependent on claim 29. As independent claims 1, 15 and 29 are believed to be patentable over Sherrod for the reasons advanced above, these claims respectively dependent thereon are also believed to be patentable over Sherrod
35 and notification to that effect is solicited.

The rejections of claims 3, 6, 31 and 34 are believed further deficient as, for example, the Action fails to identify any motivation for increasing the fluid wicking of a wicking barrier let alone to increase the fluid wicking of a wicking barrier specifically via the inclusion of apertures.

The rejections of claims 7 and 35 are believed further deficient as, for example, parameters that the Action alleges are inherently disclosed in Sherrod in no way appear related to the limitations of claims 7 and 35. More specifically, claims 7 and 35 require that the pores in the wicking barrier be about 1 mm or greater below the surface of the outer absorbent member. As the Action acknowledges that Sherrod does not disclose a wicking barrier that is formed from an apertured film, clearly Sherrod does not inherently disclose placement of pores in the wicking barrier at about 1 mm or greater below the surface of the outer absorbent member.

In view of the above, these claims are believed to be patentable over the prior art of record and notification to that effect is solicited.

3. Claim 13 was rejected under 35 U.S.C. §103(a) as being unpatentable over Sherrod in view of U.S. Patent 5,104,396 to Oatley et al. (hereinafter "Oatley").

The Action acknowledges that Sherrod does not disclose that the absorbent member comprises at least one layer of absorbent material and at least one layer of barrier material wound together in a spiral wound composite. The Action alleges that Oatley discloses a "helical path/spiral wound composite 38 is formed by absorbent fibrous layer 34 and impermeable backing sheet 32 (column 6, lines 27-45, figure 5)."

Claim 13 is dependent on claim 1. As independent claim 1 is believed to be patentable over Sherrod for the reasons advanced above and as the above-identified deficiencies of the rejection of claim 1 on the basis of Sherrod are not overcome by the further combination of Oatley therewith, claim 13 is believed to be patentable over this proposed combination and notification to that effect is solicited.

While the Action alleges that Oatley discloses a helical path/spiral wound composite 38 formed by absorbent fibrous layer 34 and impermeable backing sheet 32, the helical product in Oatley is composed of a fibrous layer and first and second wicking means. Item 32 in Oatley is disclosed as being a fluid-pervious covering sheet (column 6, lines 27-29), not an impermeable backing sheet. Moreover, Oatley expressly states that the "backing sheet" is "not visible" [in the figures] and that the flexible absorbent layer 34 is beneath the fluid-pervious covering sheet 32. [Column 6, lines 27-31, emphasis added.] Thus, rather than a spiral wound composite having at least one layer of absorbent material and at least one layer of barrier material wound together in a spiral form, as required by

claim 13, the helical product in Oatley is an absorbent fibrous layer with first and second wicking means that lies beneath a fluid-pervious covering sheet.

In view of the above, the subject rejection of claim 13 is believed to be improper or otherwise to have been overcome and notification to that effect is solicited.

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Conclusion

In view of the above, all pending claims are believed to be in condition for allowance and notification to that effect is solicited. However, should the Examiner detect any remaining issue or have any question, the Examiner is kindly requested to contact the undersigned, preferably by telephone, in an effort to expedite examination of the application.

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Respectfully submitted,



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